

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

NORTHWESTERN CORPORATION,

Debtor.

NOERTHWESTERN CORPORATION,

Plaintiff

v.

MAGTEN ASSET MANAGEMENT CORPORATION
AND TALTON R. EMBRY,

Defendants.

MAGTEN ASSET MANAGEMENT CORPORATION
AND TALTON R. EMBRY,

Appellants

v.

NORTHWESTERN CORPORATION,

Appellee.

Chapter 11

Case No. 03-12872 (JLP)

Adv. Pro. No. 04-55051 (JLP)

**DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD
ON APPEAL AND STATEMENT OF THE ISSUES TO BE
PRESENTED ON APPEAL OF MAGTEN ASSET
MANAGEMENT CORPORATION AND TALTON R. EMBRY**

Magten Asset Management Corporation ("Magten") and Talton R. Embry, (together with Magten, the "Appellants") by and through their undersigned counsel, in connection with their appeal from the Order With Respect to Motion of Magten Asset Management Corporation and Talton R. Embry Pursuant to Rule 7041(a) of the Federal Rules of Bankruptcy Procedure for Payment of Fees and Expenses Incurred (the "Order"), which was entered by United States

Bankruptcy Judge John L. Peterson on June 6, 2005 (Docket No. 126), hereby file this Designation of Items to be Included in the Record on Appeal and Statement of the Issues to be Presented to the United States District Court for the District of Delaware.

Designation of Items to be Included in the Record on Appeal

Appellant's Exhibits	Docket Number	Description
1	Case No. 04-55051, Docket no. 1	Complaint by NorthWestern Corporation against Magten Asset Management Corporation and Talton R. Embry.
2	Case No. 04-55051, Docket no. 6	Motion of Magten Asset Management and Talton R. Embry to Dismiss the Complaint of Northwestern Corporation for Failure to State a Claim Upon Which Relief can be Granted Pursuant to Federal Rule of Civil Procedure 12 (b) (6).
3	Case No. 04-55051, Docket no. 7	Declaration of Talton R. Embry in Support of the Motion of Magten Asset Management Corporation and Talton R. Embry to Dismiss the Complaint of Northwestern Corporation for Failure to State a Claim upon which Relief Can Be Granted (including all exhibits thereto)
4	Case No. 04-55051, Docket no. 8	Declaration of Gary L. Kaplan Filed by Magten Asset Management Corporation (including all exhibits thereto)
5	Case No. 04-55051, Docket no. 9	Corporate Ownership Statement Filed by Magten Asset Management Corporation.
6	Case No. 04-55051, Docket no. 10	Memorandum of Law of Northwestern Corporation in Opposition to Motion to Dismiss.
7	Case No. 04-55051, Docket no. 12	Scheduling Order.
8	Case No. 04-55051, Docket no. 13	Reply Brief of Magten Asset Management Corporation to Memorandum of Law of Northwestern Corporation in Opposition to Motion to Dismiss.
9	Case No. 04-55051, Docket no. 15	Order Denying Defendants' Motion to Dismiss Adversary Proceeding.
10	Case No. 04-55051, Docket no. 17	Motion to Determine that Adversary Proceedings are Core Proceedings filed by Law Debenture Trust Company of New York and Magten Asset Management Corporation (including all exhibits thereto).

11	Case No. 04-55051, Docket no. 18	Motion for Withdrawal of Reference to Bankruptcy Court and for Consolidation with Civil Action Number 04-1256 Pending in this District (including all exhibits thereto).
12	Case No. 04-55051, Docket no. 20	Memorandum of Law in Support of Motion to Withdraw the Reference to Bankruptcy Court and for Consolidation with Civil Action Number 04-1256 Pending in this District (including all exhibits thereto)
13	Case No. 04-55051, Docket no. 21	Motion and Memorandum in Support of Motion for Stay of Adversary Proceeding Pending Resolution of Motion to Withdraw the Reference to Bankruptcy Court (including all exhibits thereto).
14	Case No. 04-55051, Docket no. 25	Brief in Opposition to Motion and Memorandum of Law of Magten Asset Management Corporation and Law Debenture Trust Company of New York in Support of Motion for Stay of Adversary Proceedings Pending Resolution of Motion to Withdraw the Reference to Bankruptcy Court (including all exhibits thereto).
15	Case No. 04-55051, Docket no. 26	Answer and Affirmative Defenses of Defendants Magten Asset Management Corporation and Talton Embry to Complaint of Northwestern Corporation to Subordinate Magten's Claims
16	Case No. 04-55051, Docket no. 27	Response to Motion to Withdraw the Reference to the Bankruptcy Court and for Consolidation with Civil Action Number 04-1256 Pending in this District (including all exhibits thereto).
17	Case No. 04-55051, Docket no. 28	Notice of Deposition of Talton R. Embry (Scheduled for January 17, 2005 at 1:00 p.m.) Filed by NorthWestern Corporation.
18	Case No. 04-55051, Docket no. 29	Notice of Deposition of Magten Asset Management Corporation (Scheduled for January 17, 2005 at 9:00 a.m.) Filed by NorthWestern Corporation.
19	Case No. 04-55051, Docket no. 30	Reply to Response of Northwestern Corporation to Motion to Withdraw the Reference to Bankruptcy Court and for Consolidation with Civil Action Number 04-1256 Pending in this District (including all exhibits thereto).
20	Case No. 04-55051, Docket no. 31	Transmittal of Motion to Withdraw Reference to U.S. Bankruptcy Court and for Consolidation with Civil Action # 04-1256, which is currently before Judge Farnan in the U.S. District Court for the District of Delaware.
21	Case No. 04-55051, Docket no. 32	Order Determining that the Above Captioned Adversary Proceedings are Core Proceedings.
22	Case No. 04-55051, Docket no. 33	Order Regarding Motion and Memorandum of Law in Support of Motion for Stay of Adversary Proceeding Pending Resolution of Motion to Withdraw the Reference to Bankruptcy Court.

23	Case No. 04-55051, Docket no. 38	Notice of Docketing on Motion Withdrawing the Reference (Civil Action #04-1495)
24	Case No. 04-55051, Docket no.39	Notice of Service (Defendants' First Request for Production of Documents) Filed by Talton R. Embry, Magten Asset Management Corporation.
25	Case No. 04-55051, Docket no.41	Notice of Service of Subpoena – Tradition Asiel Securities, Inc. Filed by NorthWestern Corporation.
26	Case No. 04-55051, Docket no.42	Notice of Service of Subpoena – Merrill Lynch & Co., Inc. Filed by North Western Corporation.
27	Case No. 04-55051, Docket no.43	Notice of Service of Subpoena – The Bear Sterns Companies, Inc. Filed by NorthWestern Corporation.
28	Case No. 04-55051, Docket no.44	Notice of Service of Subpoena – Oscar Gruss & Son Incorporated Filed by NorthWestern Corporation.
29	Case No. 04-55051, Docket no.45	Notice of Service of Discovery (Notice of 30(b)(6) Deposition; First Set of Interrogatories) Filed by Talton R. Embry, Magten Asset Management Corporation.
30	Case No. 04-55051, Docket no.46	Subpoena (HSBC Bank USA). Filed by Talton R. Embry and Magten Asset Management Corporation.
31	Case No. 04-55051, Docket no.47	Subpoena (Avenue Capital Management) Filed by Talton R. Embry and Magten Asset Management Corporation.
32	Case No. 04-55051, Docket no.48	Subpoena (Paul Weiss Rifkind Wharton & Garrison, LLP). Filed by Talton R. Embry, Magten Asset Management Corporation
33	Case No. 04-55051, Docket no.49	Subpoena (Lazard Freres & Co., LLC) Filed by Talton R. Embry and Magten Asset Management Corporation.
34	Case No. 04-55051, Docket no.50	Subpoena (AG Capital Recovery Partners III, L.P.). Filed by Talton R. Embry and Magten Asset Management Corporation
35	Case No. 04-55051, Docket no.51	Subpoena (Houlihan Lokey Howard & Zukin). Filed by Talton R. Embry and Magten Asset Management Corporation
36	Case No. 04-55051, Docket no.52	Subpoena (Paul Hastings Janofsky & Walker). Filed by Talton R. Embry and Magten Asset Management Corporation
37	Case No. 04-55051, Docket no.53	Subpoena (The Bank of New York). Filed by Talton R. Embry and Magten Asset Management Corporation

38	Case No. 04-55051, Docket no.54	Subpoena (OCM Opportunities Fund, IV, L.P.). Filed by Talton R. Embry and Magten Asset Management Corporation
39	Case No. 04-55051, Docket no.55	Subpoena (Franklin Templeton Mutual Series Fund). Filed by Talton R. Embry and Magten Asset Management Corporation
40	Case No. 04-55051, Docket no.58	Scheduling Order (AMENDED).
41	Case No. 04-55051, Docket no.59	Subpoena with Affidavit of Service (Wilmington Trust Company). Filed by Talton R. Embry and Magten Asset Management Corporation
42	Case No. 04-55051, Docket no.61	Notice of Service of Discovery Filed by NorthWestern Corporation.
43	Case No. 04-55051, Docket no.62	Motion by Debtor for Protective Order Pursuant to Rule 7026(c) of the Federal Rules of Bankruptcy Procedure and Rule 26(c) of the Federal Rules of Civil Procedure (including all exhibits thereto).
44	Case No. 04-55051, Docket no.63	Affidavit of Karol K. Denniston in Support of Motion by Debtor for Protective Order Pursuant to Rule 7026(c) of the Federal Rules of Bankruptcy Procedure and Rule 26(c) of the Federal Rules of Civil Procedure
45	Case No. 04-55051, Docket no.64	Motion to Quash Subpoena and for Protective Order Filed by Paul, Hastings, Janofsky & Walker, LLP (including all exhibits thereto).
46	Case No. 04-55051, Docket no.65	Subpoena with Affidavit of Service (Comanche Park, LLC). Filed by Talton R. Embry and Magten Asset Management Corporation
47	Case No. 04-55051, Docket no.66	Notice of Withdrawal of Paul, Hastings, Janofsky & Walker LLP's Motion to Quash Subpoena and for Protective Order.
48	Case No. 04-55051, Docket no.67	Notice of Service of Discovery Filed by Talton R. Embry and Magten Asset Management Corporation.
49	Case No. 04-55051, Docket no.69	Objection to Motion by NorthWestern Corporation for Protective Order filed by Talton R. Embry and Magten Asset Management Corporation (including all exhibits thereto).
50	Case No. 04-55051, Docket no.70	Motion for an Expedited Teleconference on the Motion of NorthWestern Corporation for Protective Order filed by Talton R. Embry and Magten Asset Management Corporation
51	Case No. 04-55051, Docket no.73	Supplemental Objection to Motion by NorthWestern Corporation for Protective Order and Response to (i) Motion by Paul, Hastings, Janofsky & Walker LLP to Quash Subpoena and for Protective Order and (ii) Withdrawal of Motion by Paul, Hastings, Janofsky & Walker LLP to Quash Subpoena and for Protective Order (including all exhibits thereto).
52	Case No. 04-55051, Docket no.74	Order Granting Expedited Hearing on the Motion of Northwestern Corporation for Protective Order Signed on 01/05/2005.

53	Case No. 04-55051, Docket no.77	Motion by the Committee for an Expedited Teleconference on the Motion of the Committee for Protective Order Pursuant to Rule 7026(c) of the Federal Rules of Bankruptcy Procedure and Rule 26(c) of the Federal Rules of Civil Procedure
54	Case No. 04-55051, Docket no.78	Motion by the Committee for Protective Order Pursuant to Rule 7026(c) of the Federal Rules of Bankruptcy Procedure and Rule 26(c) of the Federal Rules of Civil Procedure (including all exhibits thereto).
55	Case No. 04-55051, Docket no.79	Response Of Paul, Hastings, Janofsky & Walker LLP To Supplemental Objection Of Magten Asset Management Corporation And Talton R. Embry To Motion By Northwestern Corporation For Protective Order And Response Of Magten Asset Management Corporation And Talton R. Embry To (I) Motion By Paul, Hastings, Janofsky & Walker LLP To Quash Subpoena And For Protective Order And (II) Withdrawal Of Motion By Paul, Hastings, Janofsky & Walker LLP To Quash Subpoena And For Protective Order (including all exhibits thereto).
56	Case No. 04-55051, Docket no.80	Affidavit Of Karol K. Denniston In Support Of Response Of Paul, Hastings, Janofsky & Walker LLP To Supplemental Objection Of Magten Asset Management Corporation And Talton R. Embry To Motion By Northwestern Corporation For Protective Order And Response Of Magten Asset Management Corporation And Talton R. Embry To (I) Motion By Paul, Hastings, Janofsky & Walker LLP To Quash Subpoena And For Protective Order And (II) Withdrawal Of Motion By Paul, Hastings, Janofsky & Walker LLP To Quash Subpoena And For Protective Order (including all exhibits thereto).
57	Case No. 04-55051, Docket no.81	Scheduling Order
58	Case No. 04-55051, Docket no.82	Transcript of Telephonic Hearing held on January 7, 2005 before the Honorable John L. Peterson.
59	Case No. 04-55051, Docket no.83	Notice of Service of Discovery Filed by NorthWestern Corporation.
60	Case No. 04-55051, Docket no.84	Letter Filed by NorthWestern Corporation
61	Case No. 04-55051, Docket no.87	Letter Dated January 24, 2005 from Fried, Frank, Harris, Shriver & Jacobson LLP to the Honorable John L. Peterson
62	Case No. 04-55051, Docket no.88	Notice of Cancelled Trial and Notice of Related Status Conference.
63	Case No. 04-55051, Docket no.89	Joint Motion (I) for Order Allowing the Debtor to Dismiss its Complaint Against Magten Asset Management Corporation and Talton R Embry with Prejudice Pursuant to Rule 7041(A) of the Federal Rules of Bankruptcy Procedure and Rule 41(A) of the Federal Rules of Civil Procedure and (Ii) For Leave to Amend Answer and Affirmative Defenses and to Withdraw the Counterclaims to First Amended Complaint to Avoid the Transfer of Assets of Clark Fork and Blackfoot LLC (including all exhibits thereto).

64	Case No. 04-55051, Docket no.90	Motion and Order to Shorten Notice
65	Case No. 04-55051, Docket no.91	Order Granting Motion to Shorten Time for Notice and Response.
66	Case No. 04-55051, Docket no.93	Limited Objection to the Joint Motion (i) for Order Allowing the Debtor to Dismiss its Complaint Against Magten Asset Management Corporation and Talton R. Embry, with Prejudice, Pursuant to Rule 7041(a) of the Federal Rules of Bankruptcy Procedure and Rule 41(a) of the Federal Rules of Civil Procedure, and (ii) for Leave to Amend Answer and Affirmative Defenses and to Withdraw Counterclaims to First Amended Complaint to Avoid the Transfer of Assets of Clark Fork and Blackfoot LLC (including all exhibits thereto).
67	Case No. 04-55051, Docket no.94	Order Allowing the Debtor to Dismiss its Complaint Against Magten Asset Management Corporation and Talton R. Embry, With Prejudice.
68	Case No. 04-55051, Docket no.96	Motion and Order to Shorten Time for Notice and Response - Filed by Magten Asset Management Corporation and Talton R. Embry
69	Case No. 04-55051, Docket no.97	Motion of Magten Asset Management Corporation and Talton R. Embry Pursuant to Rule 7041(a) of the Federal Rules of Bankruptcy Procedure for the Payment of Fees and Expenses Incurred.
70	Case No. 04-55051, Docket nos.98 -101	Declaration of Gary L. Kaplan (including all exhibits thereto).
71	Case No. 04-55051, Docket 102	Order Approving Motion to Shorten Time for Notice and Response
72	Case No. 04-55051, Docket 103	Northwestern Corporation's Objection to the Motion of Magten Asset Management Corporation and Talton R. Embry Pursuant to Rule 7041(a) of the Federal Rules of Bankruptcy Procedure for the Payment of Fees and Expenses Incurred
73	Case No. 04-55051, Docket 106	Motion for Leave, Pursuant to Local Rule 9006-1(d) for Permission to File a Response to NorthWestern Corporation's Objection to the Motion of Magten Asset Management Corporation and Talton R. Embry Pursuant to Rule 7041(a) of the Federal Rules of Bankruptcy Procedure for the Payment of Fees and Expenses Incurred Filed by Talton R. Embry, Magten Asset Management Corporation
74	Case No. 04-55051, Docket 107	Order Approving Motion of Magten Asset Management Corporation and Talton R. Embry for Permission to File a Response to NorthWestern Corporation's Objection to the Motion of Magten Asset Management Corporation and Talton R. Embry for the Payment of Fees and Expenses Incurred
75	Case No. 04-55051	Letter from Magten Asset Management Corporation to Judge Peterson and parties in interest dated May 4, 2005 (together with all exhibits thereto)

76	Case No. 04-55051, Docket 109	Compendium - Debtor's Request to Take Judicial Notice of Certain Pleadings and Related Documents Filed with the Court Filed by NorthWestern Corporation
77	Case No. 04-55051, Docket 110-121	Exhibits 1-8 Filed by NorthWestern Corporation
78	Case No. 04-55051, Docket 122	Response to Debtor's Request to Take Judicial Notice of Certain Pleadings and Related Documents Filed With the Court Filed by Magten Asset Management Corporation
79	Case No. 04-55051, Docket 125	Memorandum Opinion With Respect To Motion Of Magten Asset Management Corporation And Talton R.Embry Pursuant To Rule 7041(A) Of The Federal Rules Of Bankruptcy Procedure For The Payment Of Fees And Expenses Incurred.
80	Case No. 04-55051, Docket 126	Order With Respect To Motion Of Magten Asset Management Corporation And Talton R. Embry Pursuant To Rule 7041(A) Of The Federal Rules Of Bankruptcy Procedure For The Payment Of Fees And Expenses Incurred
81	Case No. 04-55051, Docket 127-128	Notice of Appeal Filed by Talton R. Embry, Magten Asset Management Corporation
82	--	Proof of Claim filed by Magten Asset Management Corporation
83	Case No. 03-12872, Docket 257	Motion of Official Committee of Unsecured Creditors for Entry of an Order Permitting Securities Trading Upon Establishment of an Ethical Wall
84	Case No. 03-12872, Docket 312	Certificate of No Objection Regarding Motion of Official Committee of Unsecured Creditors for Entry of an Order Permitting Securities Trading Upon Establishment of an Ethical Wall
85	Case No. 03-12872, Docket 335	Order Permitting Securities Trading Upon Establishment of Ethical Wall
86	Case No. 03-12872, Docket 1587	Notice of Service of Discovery re: Magten Asset Corporation Filed by NorthWestern Corporation
87	Case No. 03-12872, Docket 1951	Motion Pursuant to Sections 105(a), 363(b) and 502(c) of the Bankruptcy Code for Estimation of Magten Asset Management's Claim and to Establish Disputed Claim Reserve
88	Case No. 03-12872, Docket 2020	Debtor's Second Amended and Restated Plan of Reorganization under Chapter 11 of the Bankruptcy Code (including all exhibits thereto)
89	Case No. 03-12872, Docket 2021	Second Amended and Restated Disclosure Statement Pursuant to Section 1125 of the Bankruptcy Code for the Plan of Reorganization of the Debtor (including all exhibits thereto)
90	Case No. 03-12872, Docket 2022	Exhibits to Second Amended and Restated Disclosure Statement (including all exhibits thereto)

91	Case No. 03-12872, Docket 2062	Objection to the Debtor's Motion Pursuant to Section 105(a), 363(b) and 502(c) of the Bankruptcy Code for Estimation of Magten's Claim and to Establish a Disputed Claim Reserve
92	Case No. 03-12872, Docket 2090	Transcript of Hearing held on August 25, 2004 before the Honorable Charles G. Case, II (including all exhibits thereto)
93	Case No. 03-12872, Docket 2234	Transcript of Hearing held on October 6, 2004 before the Honorable Charles G. Case, II.
94	Case No. 03-12872, Docket 2238	Order Confirming Debtor's Second Amended and Restated Plan of Reorganization Under Chapter 11 of the Bankruptcy Code.
95	Case No. 03-12872, Docket 2276	Transcript of Hearing held on October 8, 2004 before the Honorable Charles G. Case, II.
96	Case No. 03-12872, Docket 2299	Notice of Withdrawal of Motion Pursuant to Sections 105(a), 363(b) and 502(c) of the Bankruptcy Code for Estimation of Magten Asset Management's Claim and to Establish Disputed Claim Reserve
97	Case No. 03-12872, Docket 2300	Notice Confirming Plan - Notice of (A) Entry of Order Confirming the Debtor's Second Amended and Restated Plan of Reorganization under Chapter 11 of the Bankruptcy Code and (B) The Occurrence of the Effective Date
98	Case No. 03-12872, Docket 2519	Notice of Service - Notice of Substantial Consummation of the Debtor's Second Amended and Restated Plan of Reorganization Under Chapter 11 of the Bankruptcy Code Filed by NorthWestern Corporation
99	Case No. 03-12872, Docket 2832	Joint Motion to Approve Settlement Between NorthWestern Corporation, Magten Asset Management Corporation and Law Debenture Trust Company of New York Filed by Magten Asset Management Corp (including all exhibits thereto)
100	Case No. 03-12872, Docket 2833	Declaration of Gary L. Kaplan (related document 2832) filed by Magten Asset Management Corp (including all exhibits thereto)
101	Case No. 03-12872, Docket 2837	Order (I) Shortening Time for Notice of Motion, (II) Approving Form and Manner of Notice and (III) Establishing Briefing Schedule
102	Case No. 03-12872, Docket 2862	Subpoena (Gary G. Drook) filed by Blank Rome LLP (including all exhibits thereto)
103	Case No. 03-12872, Docket 2863	The New York Times Certification of Publication
104	Case No. 03-12872, Docket 2864	Affidavit of Publication of The Billings Gazette
105	Case No. 03-12872, Docket 2866	Plan Committee's Objection To Joint Motion of Magten Asset Management Corporation and Law Debenture Trust Company of New York as Indenture Trustee for Order Pursuant to Rule 9019 of the Federal Rules Of Bankruptcy Procedure (including all exhibits thereto)

106	Case No. 03-12872, Docket 2867	Objection of Ad Hoc Committee of Class 7 Debtholders to Joint Motion of Magten Asset Management Corporation and Law Debenture Trust Company of New York as Indenture Trustee for Order Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure Approving a Settlement Between Northwestern Corporation, Magten Asset Management Corporation and Law Debenture Trust Company of New York
107	Case No. 03-12872, Docket 2868	Northwestern Corporation's Objection to the Joint Motion of Magten Asset Management Corporation and Law Debenture Trust Company of New York as Indenture Trustee for Order Approving Settlement
108	Case No. 03-12872, Docket 2870	Joinder of Cornerstone Propane Operating LLC to Objection of Ad Hoc Committee of Class 7 Debtholders to Joint Motion of Magten Asset Management Corporation and Law Debenture Trust Company of New York as Indenture Trustee for Order Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure Approving a Settlement Between Northwestern Corporation, Magten Asset Management Corporation, and Law Debenture Trust Company of New York
109	Case No. 03-12872, Docket 2871	Affidavit of Karol Denniston - Related to Debtors Objection to Joint Motion of Magten Asset Management Corporation and Law Debenture Trust Company of New York as Indenture Trustee for Order Approving Settlement (related document 2868) (including all exhibits thereto)
110	Case No. 03-12872, Docket 2873	Notice of Amendment to Plan Committee By-Laws in Connection with the Debtor's Second Amended and Restated Plan of Reorganization under Chapter 11 of the Bankruptcy Code
111	Case No. 03-12872, Docket 2880	Joint Reply to the Objections of Northwestern Corporation, the Plan Committee and the Ad Hoc Committee to the Joint Motion for an Order Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure Approving a Settlement Between Northwestern Corporation, Magten Asset Management Corporation and Law Debenture Trust Company of New York filed by Law Debenture Trust Company of New York, as Indenture Trustee, and Magten Asset Management Corp
112	Case No. 03-12872, Docket 2881	Declaration of Gary L. Kaplan (related document 2880) filed by Law Debenture Trust Company of New York, as Indenture Trustee and Magten Asset Management Corp (including all exhibits thereto)
113	Case No. 03-12872, Docket 2884	Verified Statement Pursuant to Bankruptcy Rule 2019 of Kramer Levin Naftalis & Frankel LLP Filed by Ad Hoc Committee of Class 7 Debtholders
114	Case No. 03-12872, Docket 2901	Subpoena (Jesse H. Austin, III, Esquire) filed by Magten Asset Management Corp.
115	Case No. 03-12872, Docket 2910	Memorandum Opinion Denying Joint Motion of Magten Asset Management Corporation and Law Debenture Trust Company of New York
116	Case No. 03-12872, Docket 2911	Order Denying Joint Motion of Magten Asset Management Corporation and Law Debenture Trust Company of New York
117	Case No. 03-12872, Docket 2919	Notice of Appeal filed by Law Debenture Trust Company of New York, as Indenture Trustee and Magten Asset Management Corp

118	Case No. 03-12872, Docket 2936	Transcript of Hearing held on March 8, 2005 before the Honorable John L. Peterson
119	Case No. 03-12872, Docket 3063	Transcript of Hearing held on May 3, 2005 before the Honorable John L. Peterson.

Statement of Issues to be Presented

1. Whether the Bankruptcy Court erred in determining, contrary to overwhelming authority, that the Appellants were not the prevailing parties, when the Appellee voluntarily dismissed the complaint with prejudice.

2. Whether the Bankruptcy Court erred in determining that the Order Permitting Securities Trading Upon the Establishment of an Ethical Wall prohibited trading in the Debtor's securities despite the fact that by its own terms, the order provided a safe harbor and despite the fact that the Creditors' Committee's bylaws and the confidentiality agreement executed by the members of the committee affirmatively stated that trading in the Debtor's securities was permitted in accordance with securities laws.

3. Whether the Bankruptcy Court erred in refusing to award Appellants' fees and costs in defending against the complaint where (i) the Appellee voluntarily dismissed the complaint with prejudice on the eve of trial, (ii) the undisputed documentary evidence establishes that the Appellee knew that the allegations underlying the complaint were meritless at the time the complaint was filed, (iii) the Appellee undertook no investigation prior to the filing the complaint and no discovery after the filing of the complaint to attempt to prove the allegations asserted therein, and (iv) the complaint was filed solely to harass the Appellants.

4. Whether the Bankruptcy Court erred in determining that Appellants' legal fees for defending against claims of breach of fiduciary duty and insider trading were unreasonable

where the Appellants' counsel was required to undertake significant discovery, draft multiple dispositive motions, and prepare for trial on an expedited basis and where opposing counsel did not object to the reasonableness of the fees, where no requests for follow up information regarding Appellants' legal fees were made by the Bankruptcy Court or any party and where Appellants' counsel was available at the hearing on Appellant's motion for its legal fees to testify and be cross-examined regarding such fees.

Dated: Wilmington, Delaware
June 23, 2005

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